

#9
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT

NANTUCKET, ss.

C.A. No. 1975CV00025

NANTUCKET LAND COUNCIL, INC.,
and TWELVE PERSONS DOMICILED
IN THE COMMONWEALTH OF
MASSACHUSETTS,

v.
Plaintiffs,

NANTUCKET ZONING BOARD OF
APPEALS, et al, and SURFSIDE
CROSSING, LLC

Defendants.

ANSWER

FILED

JUL 18 2019

NANTUCKET SUPERIOR COURT CLERK

RESPONSES

1. The Defendant Surfside Crossing, LLC (the "Defendant") neither admits nor denies the statements contained in the Introduction to the Plaintiffs' Complaint.

2. The Defendant denies the statement of the Plaintiff's Complaint entitled Jurisdiction, as this Court does not have jurisdiction over the Plaintiffs' Complaint.

3. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 1 of the Plaintiffs' Complaint.

4. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 2 of the Plaintiffs' Complaint.

5. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 3 of the Plaintiffs' Complaint.

6. The Defendant lacks sufficient information to admit or deny the allegations

contained in Paragraph 4 of the Plaintiffs' Complaint.

7. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 5 of the Plaintiffs' Complaint.

8. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 6 of the Plaintiffs' Complaint.

9. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 7 of the Plaintiffs' Complaint.

10. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 8 of the Plaintiffs' Complaint.

11. The Defendant denies the allegation contained in Paragraph 9 of the Plaintiffs' Complaint, and calls upon the Plaintiffs to prove the same.

12. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 10 of the Plaintiffs' Complaint.

13. The Defendant admits the allegation contained in Paragraph 11 of the Plaintiffs' Complaint.

14. The Defendant admits the allegation contained in Paragraph 12 of the Plaintiffs' Complaint.

15. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 13 of the Plaintiffs' Complaint.

16. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 14 of the Plaintiffs' Complaint.

17. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 15 of the Plaintiffs' Complaint.

18. The Defendant lacks sufficient information to admit or deny the allegations

contained in Paragraph 16 of the Plaintiffs' Complaint.

19. The Defendant lacks sufficient information to admit or deny the allegations contained in Paragraph 17 of the Plaintiffs' Complaint.

20. Paragraph 18 of the Plaintiffs' Complaint does not require a response.

21. The Defendant admits the allegations contained in Paragraph 19 of the Plaintiffs' Complaint.

22. The Defendant neither admits nor denies the allegation contained in Paragraph 20 of the Plaintiffs' Complaint, and calls upon the Plaintiffs to prove the same.

23. The Defendant neither admits nor denies the allegation contained in Paragraph 21 of the Plaintiffs' Complaint, and calls upon the Plaintiffs to prove the same.

24. The Defendant admits allegation contained in Paragraph 22 of the Plaintiffs' Complaint, that the Nantucket Board of Appeals (the "Board") issued a comprehensive permit pursuant to G. L. c. 40B, §§ 20-23.

25. The Defendant neither admits nor denies the allegations contained in Paragraph 23 of the Plaintiffs' Complaint, and calls upon the Plaintiffs to prove the same.

26. The Defendant admits the allegation contained in Paragraph 24 of the Plaintiffs' Complaint, that the Board granted waivers, pursuant to its authority under G. L. c. 40B, §§ 20-23.

27. The Defendant denies the allegations contained in Paragraph 25 of the Plaintiffs' Complaint.

28. The Defendant denies the allegations contained in Paragraph 286 (mis-numbered paragraph) of the Plaintiffs' Complaint.

29. The Defendant admits the allegation contained in Paragraph 26 of the Plaintiffs' Complaint.

30. The Defendant neither admits nor denies the allegation contained in Paragraph 27 of the Plaintiffs' Complaint, and calls upon the Plaintiffs to prove the same.

31. Paragraph 28 of the Plaintiffs' Complaint does not require a response.

32. The Defendant denies the allegations contained in Paragraph 29 of the Plaintiffs' Complaint.

33. The Defendant denies the allegations contained in Paragraph 30 of the Plaintiffs' Complaint.

34. The Defendant denies the allegations contained in Paragraph 31 of the Plaintiffs' Complaint.

35. The Defendant admits that the Board found that the Defendant had site control as required by G. L. c. 40B, §§ 20-23. The Defendant denies the remaining allegations contained in Paragraph 32 of the Plaintiffs' Complaint.

36. Paragraph 33 of the Plaintiffs' Complaint does not require a response.

37. The Defendant denies the allegations contained in Paragraph 34 of the Plaintiffs' Complaint.

38. The Defendant neither admits nor denies the allegations contained in Paragraph 35 of the Plaintiffs' Complaint, and states that G. L. c. 214, § 7A speaks for itself.

39. The Defendant neither admits nor denies the allegations contained in Paragraph 36 of the Plaintiffs' Complaint, and calls upon the Plaintiffs to prove the same.

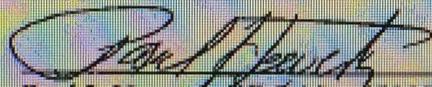
40. The Defendant neither admits nor denies the allegations contained in Paragraph 37 of the Plaintiffs' Complaint, and states that the Board's decision speaks for itself.

41. The Defendant denies the allegations contained in Paragraph 38 of the Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

1. The Plaintiffs' Complaint must be dismissed for failure to state a claim upon which relief may be granted.
2. The Plaintiffs' Complaint must be dismissed for lack of subject matter jurisdiction.
3. The Plaintiffs' Complaint must be dismissed because it is barred by the applicable statutes of limitation.
4. The Plaintiffs' Complaint must be dismissed because the Plaintiffs' lack standing.
5. The Plaintiffs' Complaint must be dismissed because Plaintiffs by their acts and deeds have waived such claims.
6. The Plaintiffs' Complaint must be dismissed because the Plaintiffs have failed to exhaust their administrative remedies.

July 17, 2019



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